

105TH CONGRESS
2D SESSION

H. R. 4431

To amend title XXVI of the Public Health Service Act to provide for State programs of partner notification with respect to individuals with HIV disease.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mr. ACKERMAN (for himself and Mr. COBURN) introduced the following bill;
which was referred to the Committee on Commerce

A BILL

To amend title XXVI of the Public Health Service Act to provide for State programs of partner notification with respect to individuals with HIV disease.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “HIV Partner Protec-
5 tion Act”.

1 **SEC. 2. PROGRAM FOR HIV HEALTH CARE SERVICES;**
2 **AMENDMENT REGARDING STATE PROGRAMS**
3 **OF PARTNER NOTIFICATION.**

4 Subpart I of part B of title XXVI of the Public
5 Health Service Act (42 U.S.C. 300ff–21 et seq.) is amend-
6 ed by inserting after section 2616 the following section:

7 **“SEC. 2616A. PARTNER NOTIFICATION.**

8 “(a) IN GENERAL.—Subject to subsection (d), for fis-
9 cal year 2000 and subsequent fiscal years the Secretary
10 shall not make a grant to a State under this part unless
11 the State demonstrates to the satisfaction of the Secretary
12 that the law or regulations of the State are in accordance
13 with the following:

14 “(1) The State requires that the public health
15 officer of the State carry out a program of partner
16 notification to inform partners of individuals with
17 HIV disease that the partners may have been ex-
18 posed to the disease.

19 “(2) In the case of a health entity that provides
20 for the performance on an individual of a test for
21 HIV disease, the State requires that the entity con-
22 fidentially report positive test results to the State
23 public health officer, including the name of the indi-
24 vidual, together with any additional information nec-
25 essary for carrying out such program.

1 “(3) The program is carried out in accordance
2 with the following:

3 “(A) Partners are provided with an appro-
4 priate opportunity to learn that the partners
5 have been exposed to HIV disease, subject to
6 subparagraph (B).

7 “(B) The State does not inform partners
8 of the identity of the infected individuals in-
9 volved.

10 “(C) Counseling and testing on HIV dis-
11 ease are made available to the partners and to
12 infected individuals, and such counseling in-
13 cludes information on modes of transmission for
14 the disease, including information on prenatal
15 and perinatal transmission and preventing
16 transmission.

17 “(D) Counseling for infected individuals
18 includes the provision of information regarding
19 therapeutic measures for preventing and treat-
20 ing the deterioration of the immune system and
21 conditions arising from the disease, and provid-
22 ing other prevention information.

23 “(E) Referrals for appropriate services are
24 provided to partners and infected individuals.

1 “(F) Notifications under subparagraph (A)
2 are provided in person, unless doing so is an
3 unreasonable burden on the State.

4 “(G) There is no criminal or civil penalty
5 on, or civil liability for, an infected individual if
6 the individual chooses not to identify the part-
7 ners of the individual, or if the individual does
8 not otherwise cooperate with such program.

9 “(H) There is no criminal or civil penalty
10 on, or civil liability for, a person who in good
11 faith makes errors in submitting reports or
12 making disclosures under such program.

13 “(I) The failure of the State to notify part-
14 ners is not a basis for the civil liability of any
15 health entity who under the program reported
16 to the State the identity of the infected individ-
17 ual involved.

18 “(J) The State provides that the provisions
19 of the program may not be construed as prohib-
20 iting the State from providing a notification
21 under subparagraph (A) without the consent of
22 the infected individual involved.

23 “(b) STATE INSURANCE LAWS WITH RESPECT TO
24 UNDERGOING TESTING.—

1 “(1) IN GENERAL.—Subject to subsection (d),
2 for fiscal year 2000 and subsequent fiscal years the
3 Secretary shall not make a grant to a State under
4 this part unless the State demonstrates to the satis-
5 faction of the Secretary that, with respect to an indi-
6 vidual who learns that the individual has been ex-
7 posed to HIV disease and then undergoes testing for
8 such disease, State insurance laws prohibit an in-
9 surer from taking any action against the individual
10 solely on the basis that the individual has been test-
11 ed for the disease.

12 “(2) RULE OF CONSTRUCTION.—A statute or
13 regulation shall be deemed to regulate insurance for
14 purposes of paragraph (1) only to the extent that
15 such statute or regulation is treated as regulating
16 insurance for purposes of section 514(b)(2) of the
17 Employee Retirement Income Security Act of 1974.

18 “(c) DEFINITIONS.—For purposes of this section:

19 “(1) The term ‘infected individual’ means an
20 individual with HIV disease.

21 “(2) The term ‘partner’ includes the spouses or
22 other sexual partners of infected individuals; the
23 partners of such individuals in the sharing of hypo-
24 dermic needles for the intravenous injection of
25 drugs; the partners of such individuals in the shar-

1 ing of any drug-related paraphernalia determined by
2 the Secretary to place such partners at risk of HIV
3 disease; and any other individual whom the infected
4 individual exposed to HIV disease.

5 “(d) DELAYED APPLICABILITY FOR CERTAIN
6 STATES.—In the case of a State whose legislature does
7 not convene a regular session in fiscal year 1999, and in
8 the case of a State whose legislature does not convene a
9 regular session in fiscal year 2000, the requirements de-
10 scribed in subsections (a) and (b) as a condition of the
11 receipt of a grant under this part applies only for fiscal
12 year 2001 and subsequent fiscal years.”.

13 **SEC. 3. GRANTS TO STATES TO ASSIST WITH COSTS OF RE-**
14 **QUIRED LAW.**

15 (a) IN GENERAL.—The Secretary of Health and
16 Human Services may make grants to States to assist the
17 States with the costs of carrying out the program of part-
18 ner notification with respect to the human immuno-
19 deficiency virus that is required in section 2616A of the
20 Public Health Service Act (as added by section 2 of this
21 Act).

22 (b) AUTHORIZATION OF APPROPRIATIONS.—For the
23 purpose of carrying out subsection (a), there is authorized

- 1 to be appropriated \$10,000,000 for each of the fiscal years
- 2 2000 through 2004.

